

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Amendment of the Commission's Rules with)	GN Docket No. 13-185
Regard to Commercial Operations in the)	
1695-1710 MHz, and 2155-2180 MHz Bands)	
)	
Service Rules for Advanced Wireless Services)	WT Docket No. 07-195
in the 2155-2175 MHz Band)	
)	
Service Rules for Advanced Wireless Services)	WT Docket No. 04-356
in the 1915-1920 MHz, 1995-2000 MHz,)	
2020-2025 MHz, and 2175-2180 MHz Bands)	
)	
Applications for License and Authority to Operate)	WT Docket No. 07-16
in the 2155-2175 MHz Band)	
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Petitions for Forbearance Under 47 U.S.C. § 160)	WT Docket No. 07-30

REPLY COMMENTS OF SPRINT CORPORATION

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REPLY COMMENTS OF SPRINT CORPORATION

I. INTRODUCTION

Sprint Corporation (“Sprint”) respectfully submits these Reply Comments in response to the Notice of Proposed Rulemaking (“NPRM”) in the above-captioned proceedings.¹ Consistent with Congress’s goals in the Middle Class Tax Relief and Job Creation Act (the “Spectrum Act”), the Commission’s work to relocate, clear, and auction the bands collectively referred to as “AWS-3” will promote commercial wireless broadband deployment and help fund the nationwide public safety wireless broadband network.

¹ *Amendment of the Commission’s Rules with Regard to Commercial Operations in the 1695-1710 MHz, 1755-1780 MHz, and 2155-2180 MHz Bands; Service Rules for Advanced Wireless Services in the 2155-2175 MHz Band; Service Rules for Advanced Wireless Services in the 1915-1920 MHz, 1995-2000 MHz, 2020-2025 MHz, and 2175-2180 MHz Bands; Applications for License and Authority to Operate in the 2155-2175 MHz Band; Petitions for Forbearance Under 47 U.S.C. § 160*, GN Docket No. 13-185, WT Docket Nos. 07-195, 04-356, 07-16, and 07-30, Notice of Proposed Rulemaking and Order on Reconsideration (rel. July 23, 2013) (“AWS-3 NPRM”).

In pursuing the important public policy goals contained in the Spectrum Act, the Commission should continue to ensure that its spectrum policies promote competition, encourage the efficient use of spectrum, and promptly reimburse those whose band-clearing efforts yielded auctionable spectrum, as discussed further below.

II. THE COMMISSION SHOULD RECONSIDER ITS UPLINK DESIGNATION FOR THE 2020-2025 MHz AWS-3 SPECTRUM BLOCK IN LIGHT OF RECENT DEVELOPMENTS AND APPLY ITS WELL-ESTABLISHED BASIS FOR REIMBURSEMENT POLICIES TO ANY ISSUED LICENSES

Sprint supports the Commission’s proposal to auction the AWS-3 spectrum at 2020-2025 MHz. This spectrum, formerly paired with the spectrum at 2175-2180 MHz to comprise the “AWS-2 J Block,” has been cleared and ready for auction for several years. In its NPRM, the Commission notes that given the current allocation of 2000-2020 MHz for mobile-to-base transmissions (i.e. mobile uplink) operations, the 2020-2025 MHz spectrum should also be used for mobile uplink, thereby avoiding potential interference between the two bands.² Sprint respectfully submits that while this represented a rational policy decision at that time, intervening events may warrant reexamination of this proposal. In particular, the Commission should consider the appropriate service rules for the 2020-2025 MHz block only *after* it has acted on DISH’s pending petition to permit it, as the AWS-4 licensee, to designate 2000-2020 MHz for either uplink or downlink, and if granted, DISH has made that election.³ Under those circumstances, the Commission can select the optimum uplink or downlink designation for the 2020-2025 MHz spectrum block.

² AWS-3 NPRM, at ¶ 46.

³ Petition for Waiver of DISH Network Corporation, WT Docket No. 13-225 (Sept. 25, 2013) (“DISH Waiver Petition”).

Regardless of whether designated for uplink or downlink, however, Sprint strongly supports the Commission's proposals requiring future AWS-3 block licensees at 2020-2025 MHz to pay their *pro rata* share of expenses previously incurred by Sprint in relocating former Broadcast Auxiliary Service (BAS) incumbents from this band.⁴ Requiring winning auction bidders to meet their reimbursement obligations through clear and effective payment mechanisms is fully consistent with the Commission's long-standing principles adopted in the *Emerging Technologies Proceeding* and its progeny (and most recently reaffirmed in the Commission's *H Block Report and Order*),⁵ and will ensure such principles remain effective and viable in future rebanding initiatives.⁶

III. REVISIONS TO THE SPECTRUM SCREEN ARE OUTSIDE OF THE AMBIT OF THIS PROCEEDING

Though the Commission did not solicit comment on modification of the spectrum screen in the context of its NPRM, one commentator sought to gratuitously rehash matters the Commission has specifically directed for resolution in another ongoing proceeding. Specifically,

⁴ AWS-3 NPRM, at ¶¶ 165-168.

⁵ *Service Rules for the Advanced Wireless Services H Block—Implementing Section 6401 of the Middle Class Tax Relief and Job Creation Act of 2012 Related to the 1915-1920 MHz and 1995-2000 MHz Bands*, Report and Order, 28 FCC Rcd 9483, ¶¶ 159-173 (Section II.B-Cost Sharing Obligations) (2013) (“H Block Report and Order”).

⁶ Moreover, should the Commission grant DISH's Waiver Petition and as a result the value of the 2020-2025 MHz spectrum (former J Block) be substantially reduced such that it is not auctioned or not licensed, the Commission should require DISH to reimburse Sprint for one-seventh of the BAS relocation costs associated with this spectrum – that is, as the Commission calculated in its NPRM, \$94,875,516. *Id.*, at ¶ 165. The private benefits associated with grant of DISH's requested waiver should not come at the cost of reimbursement of entities like Sprint that cleared this spectrum and have a regulatory right to recoup those costs had this spectrum been auctioned as originally proposed.

Verizon Wireless suggests that the Commission should radically revise its spectrum holdings policies in the course of adopting rules for the AWS-3 bands.⁷

The Commission should dismiss Verizon's spectrum screen proposals in the instant dockets. The Commission's pending *Mobile Spectrum Holdings Policies* proceeding is the proper place for the Commission to consider such suggestions.⁸ That proceeding contains a well-developed record on which the Commission is already considering whether its spectrum screen should be revised or modified. Indeed, the Commission has specifically rejected the very same proposals by Verizon in a myriad of contexts, directing Verizon to address such issues in the proper proceeding.⁹

IV. THE COMMISSION SHOULD CAREFULLY SCRUTINIZE PROPOSALS TO CHANGE ITS COMPETITIVE BIDDING RULES

At least one commenter has encouraged the Commission to significantly revise its current competitive bidding rules in the context of the AWS-3 auctions. While Sprint supports the Commission's consideration of the particular circumstances and competitive dynamics surrounding any particular auction in the Commission's formulation of appropriate competitive

⁷ Comments of Verizon Wireless, GN Docket No. 13-185, WT Docket Nos. 07-195, 04-356, 07-16, 07-30, at 16-18 (filed Sept. 18, 2013) ("Verizon Wireless Comments").

⁸ *Policies Regarding Mobile Spectrum Holdings*, Notice of Proposed Rulemaking, 27 FCC Rcd 11710 (2012) ("Mobile Spectrum Holdings Policies NPRM").

⁹ *Applications of SoftBank Corp., Starbust II, Inc., Sprint Nextel Corporation, and Clearwire Corporation for Consent to Transfer Control of Licenses and Authorizations*, Memorandum Opinion and Order, Declaratory Ruling, and Order on Reconsideration, IB Docket No. 12-343, at ¶ 42 (rel. July 5, 2013); *Applications of AT&T Mobility Spectrum LLC, New Cingular Wireless PCS, LLC, Comcast Corporation, Horizon Wi-Com, LLC, NextWave Wireless, Inc., and San Diego Gas & Electric Company for Consent to Assign and Transfer Licenses*, Memorandum Opinion and Order, WT Docket No. 12-240, ¶ 32 (rel. Dec. 18, 2012); *Applications of Cellco Partnership d/b/a Verizon Wireless and SpectrumCo LLC and Cox TMI, LLC for Consent to Assign AWS-1 Licenses*, WT Docket No. 12-4, Memorandum Opinion and Order and Declaratory Ruling, at ¶ 63 (rel. Aug. 23, 2012).

bidding rules, Sprint cautions the Commission on any wide-reaching revisions or alterations which have the potential consequence of undermining competition.

In particular, the Commission should carefully scrutinize Verizon's proposal to relax the anti-collusion rule. To be sure, Sprint is sympathetic to concerns that the Commission's current competitive bidding rules might frustrate important, pro-competitive discussions necessary for efficient and timely utilization of auctioned spectrum. For instance, given the extraordinary complexity of the incentive auction, the Commission might reasonably consider proposals to revise bidding procedures to facilitate participation by smaller bidders otherwise deterred from participation.¹⁰

A blanket revision to the Commission's competitive bidding rules – or a revision not attuned to the particular competitive dynamics of a specific auction like the AWS-3 auction – would not promote the public interest. Specifically, Verizon's reference to permitting discussions in “industry standards-setting bodies and discussions with manufacturers regarding specifications for network equipment or handsets”¹¹ is potentially troubling in the wake of the 700 MHz band balkanization – which the Commission has only recently been able to make headway in reversing. Discussions between operators and manufacturers are essential for effective and timely equipment deployment. These discussions, however, should not be a subterfuge for anti-competitive behavior – for instance, through the formulation of ‘boutique band classes.’

¹⁰ For instance, the Competitive Carriers Association has counseled against adoption of blind bidding procedures, arguing that smaller carriers (who rely on roaming agreements with leading bidders in nearby license areas) will be deterred from participating. *See* Comments of Competitive Carriers Association, WT Docket No. 12-268, at 18 (filed Jan. 25, 2013).

¹¹ Verizon Wireless Comments, at 19.

The Commission has already cited potential concern with excessive concentration (and potential balkanization) of the AWS-1 band by entrenched incumbents.¹² If, as Verizon proposes, the AWS-3 spectrum could result in an expanded AWS-1 band of 85x85 MHz, potential balkanization of this band would be particularly inimical to the public interest. To prevent such developments (which have the ability to strand competitors' investments, raise rivals' costs, and delay deployment of competitive services), Sprint urges the Commission to carefully consider Verizon's proposal to radically relax anti-collusion rules within the context of the AWS-3 auction. To further avert such competitive harm, Sprint supports U.S. Cellular in its request that, should the AWS-1 band experience such expansion, the Commission impose a clear interoperability requirement.¹³

V. CONCLUSION

Sprint applauds the Commission's efforts to unleash additional spectrum for mobile broadband. The bands collectively referred to as "AWS-3" will enable operators to expand and improve their offerings. Moreover, revenue derived from auction of this spectrum will help fund the nationwide public safety broadband network – a key public policy priority. In auctioning this

¹² *Applications of Cellco Partnership d/b/a Verizon Wireless and Atlantic Holdings LLC for Consent to Transfer Control of Licenses, Authorizations, and Spectrum Manager and De Facto Transfer Leasing Agreements, Applications of Verizon Wireless and Leap for Consent to Exchange Lower 700 MHz, AWS-1 and PCS Licenses, Applications of T-Mobile License LLC and Cellco Partnership d/b/a Verizon Wireless for Consent to Assign Licenses*, Memorandum Opinion and Order and Declaratory Ruling, WT Docket Nos. 12-4, 12-175, ¶ 70 (rel. Aug. 23, 2012) (examining intraband concentration of AWS-1 spectrum by Verizon); *Applications of Deutsche Telekom, AG, T-Mobile USA, Inc., and MetroPCS Communications, Inc. for Consent to Transfer of Control of Licenses and Authorizations*, Memorandum Opinion and Order and Declaratory Ruling, WT Docket No. 12-301, ¶ 53 (rel. March 12, 2013) (noting the Commission's focus on the effects of concentration within a particularly competitively important spectrum band such as AWS-1); *Applications of AT&T Inc., Cellco Partnership D/B/A Verizon Wireless, Grain Spectrum, LLC, and Grain Spectrum II, LLC For Consent to Assign and Lease AWS-1 and Lower 700 MHz Licenses*, Memorandum Opinion and Order, WT Docket No. 13-26, at ¶ 47 (rel. Sept. 3, 2013) ("As the Commission observed in the *Verizon Wireless-SpectrumCo Order*, AWS-1 spectrum has a well-developed ecosystem for LTE deployment and is a critical band for broadband growth, and concentration of this spectrum with a single provider has the potential to raise rivals' costs of providing mobile broadband service.").

¹³ Comments of United States Cellular Corporation, GN Docket No. 13-185, WT Docket Nos. 07-195, 04-356, 07-16, 07-30, at 16-18 (filed Sept. 18, 2013).

spectrum, however, the Commission should not be deterred from its other core public policy goals, including promoting wireless broadband competition, encouraging the efficient use of spectrum, and promptly reimbursing those whose band-clearing efforts yielded auctionable spectrum to the benefit of others.

Respectfully submitted,

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